



David B. Cohen
Mayor

CITY OF NEWTON, MASSACHUSETTS

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Public Hearing Date: January 15, 2008
Land Use Action Date: March 18, 2008
Board of Aldermen Action Date: April 7, 2008
90-Day Expiration Date: April 14, 2008

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Candace Havens, Chief Planner
Alexandra Ananth, Planner *AK*

SUBJECT: **Petition #-393-07** for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct 4 attached dwellings in two 2-unit buildings on a nonconforming lot at 73-77 WEST STREET, Ward 1, NEWTON, on land known as Sec 14, Blk 14, Lots 57 & 58, containing approx 13,569 sf of land in a district zoned MULTI-RESIDENCE 2.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decisionmaking process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

EXECUTIVE SUMMARY

The petitioner (73-77 West Street, LLC) seeks to combine two lots into a single parcel, eliminate a nonconforming automotive junkyard use and a nonconforming two-family structure, and construct two new buildings, each containing two attached dwelling units for a total of four (4) single-family attached dwelling units.

Two new two-family units would be desirable and appropriate additions to their neighborhood. There are numerous single- and two-family homes in the area and the site is close to public transportation. Variety in housing and proximity to public transportation are two desirable goals stated in the *Newton Comprehensive Plan*. In addition, it will replace a neighborhood eyesore and eliminate a use known to be associated with environmental pollutants.

Although the Planning Department strongly supports the redevelopment of this site, it has concerns about the scale of the project within the neighborhood context. Not only do the structures appear large in contrast to nearby homes, but the site coverage and FAR exceed that which would be allowed by right. Parking and site circulation are very tight and usable outdoor living area is minimal. The Planning Department suggests that the petitioner consider varying the unit sizes as a way to bring down the FAR, help reduce the mass of the buildings, improve site circulation and open space, and be more consistent with existing development patterns in the neighborhood. Some variation in architectural styles between the two units might also diminish its apparent scale and blend in more with the neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board should consider whether:

- the proposed four (4) unit development is substantially more detrimental to the neighborhood than the existing nonconforming auto junkyard use and existing deteriorated two-family dwelling;
- the specific site is an appropriate location for a four-dwelling unit development;
- the four units and associated curbcut, driveway, and parking area will result in any vehicular or pedestrian safety concerns; and
- the proposed nonconforming structures with respect to side setbacks, bulk, open space, lot coverage, and lot area per unit will adversely affect the abutters or immediate neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Background

Both lots are considered pre-1953 lots and are currently zoned Multi-Residence 2. The existing two-family structure was constructed in 1890 and has served largely as a two-family dwelling (though now badly deteriorated and vacant). Although the use is conforming, the structure is considered nonconforming due to its lot area and location in

the front and side setback. Based on information from the petitioner, it appears that the preceding owners of the junkyard rented out the two residential units in the building and maintained a commercial office in the basement for their salvage business.

It is not clear when the auto junkyard use began, but the garage on-site dates back to 1919. Inspectional Services Department files confirm that the use was determined to be a valid nonconforming use with a history of neighborhood complaints and enforcement efforts by the City. The current owner purchased the property in early 2007. The petitioner has stated that the current owner intends to complete the environmental remediation of the site and sell it to the petitioner for redevelopment.

B. Site Characteristics

The site is located on the west side of West Street about halfway between Middle and Watertown Streets. The site is composed of two lots. Lot 1 has an area of 7,913 square feet and is bordered by a six-foot high stockade fence along the front and side lot lines. It contains a metal trailer and a one-story, three-bay concrete block garage located partially on Lot 2. Lot 2 has an area of 5,747 square feet and is improved with a two-story, two-family structure that is in poor condition and appears to be vacant. The interior of the lot appears to be open and the petitioner has stated that the historic use of this area was for parking and storage. A six-foot tall cement retaining wall runs along the rear property line of the site.



Existing deteriorated two-family structure to be demolished



Existing three-bay garage and auto parts company to be demolished

C. Neighborhood and Zoning

The subject property is located in Nonantum behind Adams Street between Middle and Watertown Streets. The area is zoned Multi-Residence 2 and is densely developed with a mix of two-family, multi-family and single-family dwellings. Most of the structures were built in the 1880s and are two-family or duplex-style residences. Many of the surrounding homes are on substandard lots with little open space. The neighborhood is experiencing some redevelopment, with smaller two-family dwellings being torn down and replaced with much larger two-family dwellings.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use.

The replacement of this nonconforming automotive junkyard use with more compatible, two-family residences will be a benefit to the neighborhood. The proposed development is well located in relationship to many conveniences and public transportation.

B. Building design, colors and materials.

The development includes two townhouse-style attached dwelling buildings, each with two units. Both buildings are 2 ½-stories with a hip style roof with dormers off the front and sides of each unit. The structures are oriented so that a front door faces the street for both buildings. The second units are a flipped mirror image of the front units; therefore, their front doors are in the rear yard. Each unit has a porch and small patio space. The petitioner is proposing clapboard siding and asphalt shingles. Each building is approximately 2,350 square feet in area with a one-car garage. Although this unit size would not be considered large in many parts of Newton, it is almost double the average unit size in the immediate

neighborhood and 1,000 sq. ft. larger than the existing units mentioned at 73 West Street. The FAR is .68, compared to a neighborhood average of .48. (See Section V.A. of this report for technical analysis of site dimensions).

The buildings appear very large, especially when viewed in the context of the surrounding neighborhood; the proposed design requires waivers of lot size, lot area per unit, side setbacks, open space and lot coverage. The Planning Department recommends the petitioner consider reducing the size of the units to be more in keeping with the scale of other homes in the vicinity and to create more usable outdoor living area. Some variation in architectural style of the two buildings would also be more suited to this context.

C. Landscaping.

The petitioner is proposing two flowering Crabapple trees in front of the building as well as some yews, hollies and mountain laurels. The Planning Department believes there is room for a few more substantial trees in would help minimize the height of the structures and create a buffer between the structure and the public way adjacent to this reduced front setback. In addition the Planning Department suggests that the petitioner consider adding some screening around the exterior parking stalls. The petitioner did not submit a tree removal plan although it appears two trees would need to be removed in order to complete the project as proposed. The site is fairly level and there are no proposed grade changes in excess of three feet. There is a proposed retaining wall on a portion of the northerly lot line in order to aid in the transition from the patio to the abutting yard, which the petitioner has stated does not exceed 18 inches. The petitioner should identify any trees to be removed and file for a tree removal permit prior Working Session.

D. Parking, Traffic and Circulation.

Vehicular access is provided by a shared driveway down the middle of the site between the two proposed buildings and meets driveway width requirements. However, the end of the driveway which serves as a turnout for existing cars is located within the required 10 ft. setback and as close as two feet to the rear lot line. The petitioner is proposing eight parking spaces for the development: four spaces in garages and four exterior stalls at the rear of the site. Although all of the stalls meet the dimensional requirements, the four outdoor stalls are located within the required 20 ft. parking setback. The petitioner may seek exceptions for these encroachments through Section 30-9(b)(5)(b).

The site very tight because of the size of the four units and associated parking as proposed. There does not appear to be sufficient space to accommodate a visitor who may come to the site, find all exterior stalls are full and be unable to turn around and exit the site in a forward direction. As previously mentioned, the Planning Department has suggested reducing one or both units, which could improve site circulation.

IV. COMPREHENSIVE PLAN

One important aspect of the *Newton Comprehensive Plan* is that it proposes to focus additional housing in the City around village centers and public transportation nodes. In the section titled "Residential Implementing Actions," the *Comprehensive Plan* suggests that housing opportunities should be found in areas that can support high-density multi-family uses. The subject property at 73-77 West Street appears to be in an area of the

City where there is some potential for additional housing; higher density units are especially appropriate close to shopping and public transit, such as the nearby commuter rail and express bus lines going into the City of Boston.

One of the other goals of the *Newton Comprehensive Plan* is to maintain and add to the economic diversity of housing in the City, particularly for those people who cannot afford to buy housing in Newton given median housing values, but also who do not qualify for affordable housing. While the Planning Department believes that attached dwelling use is appropriate for this site, a greater diversity in the size of the units could be an added benefit and further this goal.

V. TECHNICAL REVIEW

A. Dimensional Controls

The table below compares existing and proposed site features to the applicable dimensional controls for Attached Dwellings by Special Permit in a Multi-Residence 2 District:

Attached Dwellings in a Multi-Residence 2 District	Required	Existing	Proposed
Lot Area	15,000 sq. ft.	13,659 sq. ft.	13,659 sq. ft.
Lot Area Per Unit	4,000 sq. ft.	2,874 sq. ft. for #73 West St.	3,415 sq. ft.
Frontage	80 ft	140.5 ft.	140.5 ft.
Setbacks			
Front	25 ft. (10 ft. with averaging)	4.3 ft.	10.1 ft.
Side	25 ft.	5.8 ft.	7.7 ft.
Rear	25 ft.	41.8 ft.	25 ft.
Total Floor Area Ratio	NA	~0.45 for #73 West St.	0.68
Building Height	30 ft.	NA	28.7 ft.
Max. Number of Stories	2.5	2	2.5
Max. building lot coverage	25%	18.9%	39.9%
Min. amount of open space	50%	23.9%	43.1%

As illustrated above, the petition is nonconforming with regard to lot area and lot area per dwelling unit for the proposed attached dwelling development. The site consists of a nonconforming use on a conforming lot and one conforming use on a substandard lot. The petitioner may seek relief pursuant to Section 30-21(b) to change a nonconforming use and may also seek an exception to Section 30-9(b)(5)b) as to lot size.

The petitioner is also seeking exceptions from Section 30-15, Table 1 for side setbacks, lot coverage, and open space requirements. The petitioner may seek relief pursuant to section 30-9(b)(5)b) to reduce the side yard setbacks. The proposed front setback meets the minimum 10 foot requirement based on the averaging provisions. The petitioner must seek a variance from the Zoning Board of Appeals pursuant to Section 30-27 to increase the lot coverage above the 25% maximum.

The petitioner has stated that the use of the site as a junkyard caused more than 50% of the surface not devoted to buildings to be used as a parking and storage area. Aerial photographs confirm this condition and the petitioner has provided plan-based calculations supporting this factor, therefore substandard open space is deemed a valid nonconforming condition. While the proposed construction would increase the amount of open space to 43.1%, this is still well below the 50% required minimum and the petitioner must seek a waiver through Section 30-21(b).

Although there is no limit on FAR for attached dwellings in the Multi-Residence 2 District, two-family dwellings in the M-R2 District have a maximum FAR of 0.4. Submitted plans indicate a total FAR of approximately 0.68, which is significantly higher than what the petitioner would be able to build by right and significantly higher than the existing two-family structure at 73 West Street. A density analysis conducted by the Planning Department (*SEE ATTACHMENT "B"*) indicates a wide range of FARs in the immediate neighborhood, averaging .48 overall. There are two attached townhouse-style units at 98-100 West Street that were constructed by right in 2006 with an FAR of .48 (based on the City Assessor's database). Although 0.48 is higher than what would be allowed today by right, it is significantly less than what the petitioner is proposing. The total FAR allowed is subject to the discretion of the Board of Aldermen pursuant to the special permit review process.

B. Parking Requirements

The following chart illustrates how the proposed project compares to the applicable parking requirements for the proposed 4-unit attached dwelling development.

73-77 West Street Parking Analysis	Ordinance	Proposed
Min. # of parking stalls	8	8
Parking Setbacks MR2 Zone		
Front	20 ft.	>20 ft.
Side	20 ft.	>20 ft.
Rear	20 ft.	7 ft.
Min. stall dimensions	9 ft. x 19 ft.	9 ft. x 19 ft.
Entrance/Exit Drives	12 ft. (min.)/20 ft. (max)	20 ft.
Main driveway	14 ft.	14 ft.
Driveway Side Setback	10 ft.	2 ft.

C. Other Reviews

1. Fire Department. Asst. Chief Proia reviewed the plans and approved the site layout for water and fire department accessibility. The Fire Department will review final plans for fire prevention matters during the building permit process.
2. Engineering. The Associate City Engineer has reviewed plans and has offered a number of comments in his attached memorandum dated December 19, 2007 (*SEE ATTACHMENT "C"*).

3. Historical Review. The Newton Historical Commission reviewed the project and proposed demolition and deemed the buildings to be not "Historically Significant." No further review is required.

D. Summary of Zoning Reliefs Requested

Based on the Chief Zoning Code Official's zoning review, dated December 11, 2007 (SEE ATTACHMENT "A"), the petitioner is seeking relief from or approval through:

- Section 30-9(b)(5) for approval of 4 single-family attached dwellings in the MR-2 zone;
- Section 30-15, Table 1 and 30-9(b)(5)b) to reduce the side setbacks from 25 ft. to 8.7 ft. and 7.7 ft. at the northerly and southerly side lot lines respectively;
- Section 30-15, Table 1 and 30-21(b) for approval to allow change of nonconforming junkyard use to 4 attached dwellings on nonconforming lot as to lot size and lot area per dwelling unit in the MR-2 zone;
- Section 30-15, Table 1 and 30-9(b)(5)b) for approval to reduce the minimum lot area from 15,000 sq. ft. to 13,659 sq. ft. for attached dwellings;
- Section 30-9(b)(5)a)&b) for exceptions to waive the driveway setback from 10 ft. to 2 ft. at the turnout and for exceptions to locate four parking stalls within the 20 ft. rear setback;
- Section 30-21(b) for approval to allow improved nonconforming open space at 43.1%, where 50% is the required minimum;
- Section 30-23 for approval of the site plan including landscape plan;
- Section 30-24(d) for approval of special permit; and Section 30-15, Table 1 and 30-27(b)(2) to allow 39.9% lot coverage, exceeding applicable maximum lot coverage of 25% pertaining to attached dwellings in the MR-2 zone.

E. Summary of Petitioner Responsibilities

At the public hearing the petitioner should be prepared to respond to all issues raised by the Associate City Engineer, Fire Department, and Planning Department. Prior to the Working Session the petitioner is expected to submit:

1. further information as to how to accommodate vehicles that must exit the site if all available on-site parking spaces are occupied.
2. a tree removal plan and file for a tree removal permit.
3. responses to the Engineering Division concerns.

ATTACHMENTS:

ATTACHMENT A: Zoning Review Memorandum, December 11, 2007

ATTACHMENT B: Neighborhood Density Analysis

ATTACHMENT C: Memo from Associate City Engineer, December 19, 2007

ATTACHMENT D: Site plan

ATTACHMENT E: Zoning Map

ATTACHMENT F: Land Use

Zoning Review Memorandum

Dt: December 11, 2007

To: Young H. Lee, Manager 73-77 West St. LLC, represented by Terrence P. Morris, Esq.

Fr: Juris Alksnitis, Chief Zoning Code Official

Cc: Michael Kruse, Director, Department of Planning and Development
John Lojek, Commissioner of Inspectional Services

Re: **Proposal for two buildings with four attached dwelling units, West Street**

Applicant: Young H. Lee, Manager, 73-77 West Street, LLC

Site: 73-77 West St., Nonantum

Zoning: Multi-Residence 2

SBL : Section 14, Block 14, Lots 57-58

Lot Area: Lot 57 -- 5,747 sq. ft.

Lot 58 -- 7,917 sq. ft.

Total -- 13,664 sq. ft. per GIS

Total -- 13,659 sq. ft. per plan

Current uses: Junkyard, garage, and 2F dwelling

Prop. use: 4 attached dwelling units

Background:

The petitioner seeks to eliminate a non-conforming automotive junkyard use and a non-conforming two-family dwelling in dilapidated condition, while constructing two new buildings, each containing two attached dwelling units. The two-family structure is located on Lot 57, while the automotive junkyard occupies both lots 57 and 58 as shown in GIS aerial photographs. The applicant proposes to combine the two lots into a single parcel and create a total of four single-family attached dwelling units. The subject development would necessitate a number of zoning reliefs as discussed in greater detail below together with a variance pursuant to Section 30-27.

Administrative determinations

1. Based on information provided by the applicant, the subject lots were created in 1908, do not appear to have changed, and are considered pre-1953 lots currently zoned MR-2. The applicant has the opportunity to consider reconstruction of a nonconforming 2F dwelling on the undersize Lot 57 and also construction of a 2F dwelling on the conforming Lot 58. Due to various considerations, the applicant seeks to combine the two lots and construct two buildings each containing two attached dwellings on a combined nonconforming parcel not meeting the area and certain related requirements for attached dwellings. The subject project proposes in effect to replace an existing noxious nonconforming use with a more compatible residential use within the same limited site, yet having some nonconforming characteristics. This necessitates review and approval by the Board of Aldermen pursuant to Newton Zoning Ordinance Sections 30-9(b)(5), 30-15, *Table 1, Density and Dimensional Controls in Residence Districts and for Residential Uses*, (Table 1), change of one non-conforming use to another non-conforming use pursuant to 30-21(b), site plan approval in accordance with Section 30-23, and grant of special permit per 30-24. In addition, the proposed development must satisfy applicable parking requirements as

established in Section 30-19. The following analysis is based upon the submitted plans and information received to date as referenced in Plans and materials reviewed, below.

2. Originally zoned Manufacturing in 1922, the site was part of several rezonings over the years. The City's Zoning Atlas indicates the zone changed to General Residence in 1936 and most recently appears as MR-2 since 1987. Constructed approximately in 1890, the dwelling structure appears to have served largely as a 2F house. The two-family dwelling use is a conforming use, although located within a nonconforming dwelling structure. Based on information provided by the applicant's representative, it appears that the preceding owners and operators of the junkyard rented out two units and maintained a commercial office in the basement for their salvage business.

While the three-bay garage on the site dates back to 1919, which precedes the adoption of the Zoning Ordinance in 1922, it is not clear when the auto junkyard use commenced and it is also unclear at what point the basement of the 2F dwelling became utilized for a salvage business office. However, various records in the ISD property file indicate a prior determination that the use is a valid non-conforming use and that it has had a colorful history with periods of neighborhood complaints, review, and enforcement efforts by City authorities. Known most recently as West St. Used Auto Parts Co., the auto salvage type use apparently continued until the property was purchased by Old Blackstone Realty, LLC in March 14, 2007. The current owner intends to complete environmental remediation of the site and sell it to the applicant for development. In summary, the overall site consisting of Lots 57 and 58 contains a primary nonconforming auto junkyard use while the Lot 57 portion contains both a conforming 2F use and salvage office in the basement, which may or may not have been a legal nonconforming use. As a result, the predominant character of the use of the site overall is deemed to be a nonconforming junkyard.

3. The applicant's architect has provided an analysis, which indicates that the proposed 4-unit development satisfies *Section 30-1, Definitions, "Dwelling, attached"* as to building type. Two attached dwelling units per building are located within two buildings on the proposed combined parcel.
4. *Section 30-15, Table 1*, establishes a minimum lot area of 15,000 sq. ft. and lot area per unit of 4,000 sq. ft. for attached dwellings. By comparison, the proposed development has a lot area of 13,659 sq. ft. and a lot area per unit of 3,415 sq. ft. In this case, the applicant seeks to change an existing nonconforming use from a junkyard to a residential use within the same limited overall site (comprised of one conforming lot and one substandard nonconforming lot) having nonconforming lot area with respect to attached dwellings and also with respect to lot area per dwelling unit as proposed. As a result, the applicant may seek relief pursuant to Section 30-21(b) pertaining to change of nonconforming use. The applicant should also seek an exception pursuant to Section 30-9(b)(5)b) as to lot size and in so doing articulate the basis for such an exception consistent with the criteria in the referenced section.
5. *Section 30-15, Table 1*, establishes the density and dimensional controls applicable to attached dwelling units. However, the proposed development requires several exceptions to the Table 1 requirements for side setbacks, lot coverage and open space. Table 1 requires a 25 ft. side setback, 50% open space (min.) and 25% lot coverage (max.) in the MR-2 zone, but proposed plans locate the two buildings closer than 25 ft. to the side lot lines and show 43.1% open space and 39.9% lot coverage. It is noted that the existing 2F house is currently located 5.8 ft. from the northerly side lot line and the existing garage crosses the lot line separating the two existing lots, reflecting existing nonconforming conditions. The petitioner may seek relief pursuant to Section

30-9(b)(5)b) to reduce the side yard setbacks to 7.7 ft., and 8.7 ft. respectively and needs to provide an explanation as to how such relief meets one or more of the required criteria enumerated in (5)b). Proposed front setbacks meet the minimum 10 ft. requirement based upon setback averaging provisions in Section 30-15(d).

Minimum open space of 50% has been in effect since 1987 for all pre-1953 lots in an MR-2 zone and also applies to attached dwelling unit developments. Section 30-1 defines "Space, usable open", in relevant part, as "*all the lot area not covered by buildings and/or structures, roadways, drives, surface parking areas or paved surfaces other than walks.*" The applicant has stated that the historic use of this parcel as a junkyard for used automotive vehicles and accessory parts, caused more than 50% of the surface, not devoted to buildings, to be used as a parking area and storage area. While aerial photographs available in GIS seem to indicate site conditions not inconsistent with this observation, the applicant needs to provide plan-based calculations in support of this factor. In such case, the substandard open space would be deemed a valid nonconforming condition. While proposed plans would increase open space to 43.1%, reducing the nonconformity, this would still fall below the 50% minimum. As a result, approval of this result may be sought from the Board of Aldermen pursuant to Sections and 30-21(b) to substantially alter a nonconforming condition.

As noted above, while attached dwellings are subject to maximum lot coverage of 25%, proposed plans will increase lot coverage from 18.9% to 39.9%. Submitted plans do not indicate any pre-existing valid nonconforming lot coverage. Consequently, the increase above the 25% maximum necessitates a variance from the Zoning Board of Appeals, pursuant to Section 30-27.

6. *Section 30-15, Table 1*, establishes the FAR of 0.4 for 2F development in the MR-2 zone, but provides no limit applicable to attached dwellings. Submitted architectural plans accompanied by the architect's calculation indicate that the total FAR for the overall development would be approximately 0.68. The total FAR allowed is subject to the discretion of the Board of Aldermen pursuant to the special permit review and approval process.
7. *Section 30-19(d)(2)* establishes the number of parking stalls required by the proposed development as eight (8) spaces, four of which are in proposed conforming garages. While *Section 30-19(h)(2)c)* requiring handicapped spaces does not apply given the number of surface parking stalls at this site, the applicant may wish to consider providing HP parking for potential future residents with disabilities.
8. *Section 30-9(a)(5)(a)* in conjunction with *30-19(g)* establish the applicable driveway dimensional, and driveway setback requirements. The proposed driveway meets the dimensional requirement as to width. However, the end of the driveway, which provides a turnout for cars exiting a parking space, is located within the required 10 ft. setback and as close as 2 ft. to the rear (westerly) lot line. Driveway encroachments are not allowed, unless approved as exceptions under special permit criteria enumerated in Section 30-9(b)(5)(b).
9. *Section 30-9(a)(5)(a)* in conjunction with *30-19(g)* establish the applicable parking stall dimensional and setback requirements. The proposed parking stalls meet the dimensional requirements. However, the four outdoor parking stalls are located within the required 20 ft. parking setback and as close as 7 ft. to the rear (westerly) lot line. Parking encroachments are not allowed, unless approved as exceptions under special permit criteria enumerated in Section 30-9(b)(5)(b).

10. *Section 30-5(b)(4)* requires a special permit whenever "...the existing contours of the land are to be altered by more than three (3) feet." The applicant states that the proposed work will not involve re-grading with changes in topography exceeding three feet. This fact is noted on the proposed topographic site plan prepared by VTP Associates, Inc. dated November 30, 2007.
11. *Section 30-23(b)(6)* in conjunction with *Section 30-24(a)* requires the submittal of a landscape plan, which the petitioner has provided. According to the existing conditions plan there are seven existing trees having significant caliper, most notably, a 26" Maple tree, none of which appear to be impacted by the development. The petitioner is responsible for verifying this and for complying with Sections 20-31 through 20-39, *Tree Preservation Ordinance*.
12. *Section 30-24(f)(2)*, *Inclusionary Zoning*, states that "[w]here "a special permit is required for residential development... beyond that allowable as of right or where the development is proposed to include new or additional dwelling units totaling more than two households..., the development shall be subject to the inclusionary zoning provisions... ." Here the total of 4 proposed attached dwelling units does not exceed the total of 4 units otherwise potentially possible through construction of two 2F dwellings as of right on the respective adjacent lots. Also, although two additional units would be constructed compared to the existing 2F dwelling, the above text requires that there be more than two households in order to fall within the scope of 30-24(f)(2). The applicant has indicated, that in the event *Section 30-24(f)(2)* applies, the applicant would elect to satisfy the inclusionary housing requirement consistent with *Section 30-24(f)(4)*, *Cash Payment*, which allows an applicant to make cash payment in lieu of providing an affordable unit when the total number of dwelling units proposed in the development will not exceed six units.
13. As no signage is proposed, the applicant has submitted no information pertaining to signage. Should this change, the petitioner is responsible for following the procedures and requirements pertaining to the review, approval, and permitting of signs as established in *Section 30-20*.
14. While the applicant has submitted no information pertaining to lighting, the petitioner is responsible for complying with Ordinance X-142, *Light Ordinance*, as set out in Sections 20-23 through 20-28 with respect to *Light Pollution* and *Light Trespass*, respectively. The applicant's representative has stated that no lighting other than standard house lights at doors and over garages will be utilized.
15. While the applicant has submitted no information pertaining to fences, the petitioner is responsible for meeting the requirements of *Section 20-40, Regulation of Perimeter Fences*.
16. The existing 2F was built approximately at 1890 and the garage in circa 1919. Both are subject to *Section 22-44, Demolition Delay* provisions that apply to buildings over 50 years old. The Newton Historical Commission reviewed the project on May 14, 2007 and noted that the existing dwelling was "*in extremely deteriorated condition*" and also that the dwelling and the garage were deemed "Not Historic"; and therefore, "[d]emolition is not delayed and no further review is required."
17. Some of the submitted plans lack the stamp or signature of a registered professional as noted in Plans and Materials Reviewed, below. The applicant is responsible for providing stamped and signed plans not later than at the time of filing the petition with the Clerk of Board of Aldermen.
18. See "Zoning Relief Summary" below.

Zoning Relief Summary		
Ordinance		Action Required
	Buildings	
30-15, Table 1 30-9(b)(5)b)	Exception to reduce side setbacks from 25 ft. to 8.7 ft. and 7.7 ft. at the northerly and southerly side lot lines respectively.	X
	Use	
30-9(b)(5)	Approval of 4 single-family attached dwellings in the MR-2 zone.	X
30-15, Table 1 30-21(b)	Approval to allow change of nonconforming junkyard use to 4 attached dwellings on nonconforming lot as to lot size and lot area per dwelling unit in the MR-2 zone. See 4., above.	X
30-15, Table 1 30-9(b)(5)b)	Approval to reduce minimum lot area from 15,000 sq. ft. to 13,659 sq.ft. for attached dwellings. See 4., above.	X
	Driveway	
30-9(b)(5)a)&b)	Exception to waive the driveway setback from 10 ft. to 2 ft. at the turnout.	X
	Parking	
30-9(b)(5)a)&b)	Exception to locate four parking stalls within the 20 ft. rear setback.	X
	Site	
30-21(b)	Approval to allow improved nonconforming condition of open space at 43.1%, less than 50% minimum. See 5., above.	X
30-23	Approval of site plan, including landscape plan	X
	Signs	
	N/A	
	Special Permit	
30-24(d)	Approval of special permit	X
	ZBA Variances	
30-15, Table 1 30-27(b)(2)	To allow 39.9% lot coverage, exceeding applicable maximum lot coverage of 25% pertaining to attached dwellings in the MR-2 zone.	X

Plans and materials reviewed:

- Plan of Land in Newton Belonging to Abby M. Coxeter dated Sept. 18, 1908 copied from Record Book No. 3391 in the Middlesex South Registry of Deeds.
- Quitclaim Deed from West Street Used Auto Parts Co., Inc. to Old Blackstone Realty, LLC dated 3/14/07 recorded at the Middlesex South Registry of Deeds in Book 99141 at page 518.
- Demolition Review Decision, Newton Historical Commission, May 14, 2007, approving demolition of 73 West Street dwelling.
- Demolition Review Decision, Newton Historical Commission, May 14, 2007, approving demolition of 77 West Street garage.

- Letter from Jai Singh Khalsa, Architect, dated December 7, 2007, signed (not stamped) by Jai Singh Khalsa, Registered Architect regarding Compliance with Definition of Attached Dwelling.
- Letter from Jai Singh Khalsa, Architect, dated December 7, 2007, signed (not stamped) by Jai Singh Khalsa, Registered Architect, regarding ½-story and FAR calculations.
- Plan set titled “73-77 West St., Newton, MA”, dated November 30, 2007, prepared by Khalsa Design, Inc., Architect, 17 Ivaloo St., Suite 400, Somerville, MA, 02143, stamped, but not signed, by Jai Singh Khalsa, Registered Architect, consisting of the following:
 - Sheets A101, 102, 103 & 104 – Floor plans and roof plan
 - Sheets A105, 106, 107 & 108 – Elevations
 - SK1 – A-01 – Third Floor Area
- Plan set titled “73-77 West St., Newton, MA”, prepared by VTP Associates, Inc., PLS, Land Surveyors – Civil Engineers, 132 Adams Street, Newton, MA 02458, stamped and signed James J Abely, Registered Civil Engineer, consisting of the following:
 - Sheet 1 – Existing Conditions Site Plan, dated September 14, 2007
 - Sheet 2 – Topographic Site Plan Newton Massachusetts showing Proposed Conditions at # 73 + 77 West Street, dated November 30, 2007
 - Sheet 3 – Detail Sheet Newton Massachusetts showing Details at # 73 + 77 West Street, dated November 30, 2007.
- Plan titled “Schematic Landscape Plan, 77 West St., Newton, MA”, dated November 30, 2007, prepared by Andrea W. Kelley, Rockwood Terrace Consultants, Landscape Designer.

Neighborhood Comparison Chart (Prepared by Planning Department)

No.	Street	FAR	Interior* (sq.ft.)	Ave Unit Size	Lot Size* (sq.ft.)	Units*	Lot Area per unit	Year Built	Siding	Style
57-59	West	0.447	2200	1100	4920	2	2460	1890 vinyl		2-fam
61	West	0.311	1772	1772	5704	1	5704	1900 wood shing		old
63	West	0.497	974	974	1960	1	1960	1880 vinyl		old
65	West	0.471	799	799	1696	1	1696	1885 vinyl		old
69	West	0.388	1338	1338	3447	1	3447	1885 vinyl		old
73	West	0.454	2611	1306	5747	2	2874	1890 vinyl		2-fam
81	West	0.424	2400	800	5657	3	1886	1885 vinyl		old
83-85	West	0.467	1966	983	4206	2	2103	1870 vinyl		duplex
91	West	0.600	1320	1320	2200	1	2200	1910 stucco		bungalow
93	West	0.315	2170	2170	6881	1	6881	1885 stucco		old
99	West	0.346	2560	1280	7409	2	3705	1895 vinyl		2-fam
107-109	West	0.207	2095	1048	10120	2	5060	1880 vinyl		old
111-117	West	0.763	3960	990	5191	4	1298			
50-52	West	0.494	3260	1630	6600	2	3300	1997 vinyl		2-fam
56-66	West	0.416	8236	1373	19800	6	3300			
68-70	West	0.382	2520	1260	6600	2	3300	1990 clapboard		2-fam
76	West	0.771	1192	1192	1547	1	1547	1900 vinyl		old
78-80	West	0.750	2100	1050	2800	2	1400	1895 vinyl		duplex
84	West	0.721	1050	1050	1456	1	1456	1884 vinyl		old
86	West	0.721	1050	1050	1456	1	1456	1885 vinyl		old
98-100	West	0.479	4216	2108	8800	2	4400	2006 clapboard		townhouse
106-108	West	0.334	1837	919	5500	2	2750	1880 wood shing		duplex
112	West	0.222	1221	1221	5500	1	5500	1930 shingle		old
	Avg	0.48	2,298	1,249	5,443		3,030			
73-77 West St.		0.68	9,368	2,342	13,659	4	3,415			
(Proposed)										

**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman George Mansfield, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – #73 & 77 West Street

Date: December 19, 2007

CC: Lou Taverna, PE City Engineer (via email)
Candice Havens, Chief Planner (via email)
Linda Finucane, Associate City Clerk (via email)
Alexandra Ananth, Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

*Topographic Site Plan
Showing Proposed Conditions at 73 & 77 West Street
Newton, MA
Prepared by: VTP Associates, Inc.
Dated: November 30, 2007*

Drainage:

1. An on site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. The proposed drainage system shall be within (20') of the test pit. The proposed drainage system should be 2' above the seasonal high groundwater elevation. **This information needs to be submitted to the Engineering Division for review.**
2. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 7-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site.

3. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and adopted by a Homeowners Association, incorporated into the deeds of the proposed development; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
4. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.

Water & Sewer:

1. The proposed configuration of water services is unacceptable; they are located under stairs and patios. The services should be located so that they do not conflict with such features.
2. A detailed profile is needed which shows the existing water main, proposed water service(s), sewer main and proposed sewer service(s) with the slopes and inverts labeled to ensure that there are no conflicts between the sewer services and the water service. The minimum slope for a service is 2.0%, with a maximum of 10%. Pipe material shall be 6" diameter SDR 35 PVC pipe within 10' of the dwelling then 4" pipe per Massachusetts State Plumbing Code.
3. The existing water & sewer services to the dwelling on Lot 1 shall be cut and capped at the main and be completely removed from the site and properly back filled. The Engineering Division must inspect this work; failure to have this work inspected may result in the delay of issuance of the Utility Connection Permit.
4. The engineer of record needs to obtain the invert elevations of both downstream & upstream sewer manholes for verification of the proposed sewer manhole and service connections.
5. As West Street was reconstructed in 2004, the City's policy requires that the roadway surface restoration include curb-to-curb milling of 1-1/2" and overlay of Type I-1 bituminous concrete, 25 feet beyond all trenches.
6. The entire cement concrete sidewalk along the frontage shall be reconstructed.

Environmental:

1. Has a 21E Environmental Site Investigation Report been completed? The site is a former junkyard that may have issues about groundwater and/or soils contamination. The applicant needs to report to the Board of Health any issues identified in the 21E report. Is there any restrictions regarding vegetable gardening?
2. An existing monitoring well is present on site, what is the long-term status of this well?
3. Are there any underground fuel or oil tanks on site, the removal of these will have to be coordinated with the Board of Health and the Newton Fire Dept.

Solid Waste & Recycling:

- The issue of trash collection needs to be addressed, it is strongly recommended that the applicant meet with Ms. Elaine Gentile, Director of Environmental Affairs and clarify the requirements of where trash & recycling receptacles will be placed on collection day.

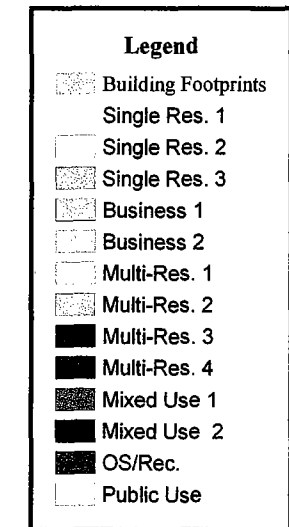
General:

1. Will the existing retaining wall be altered or updated, the wall should be evaluated by a structural engineer as there are several cracks in the wall.
2. All tree removal shall comply with the City's Tree Ordinance.
3. Are the dwellings to be serviced by gas, if so the locations of the services need to be indicated so that there are no conflicts with between the proposed utilities.
4. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility is question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
5. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*

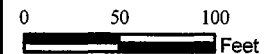
6. The applicant will have to apply for a Building permits with the Department of Inspectional Service prior to any construction.
7. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
8. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

73-77 West St.
Newton, MA



The information on this map is from the Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for his or her purpose. City departments will not necessarily approve applications based solely on this map.



MAP DATE: January 09, 20

Land Use Map

73-77 West St.
Newton, MA

- Legend**
- Building Footprints
 - Single Family Residential
 - Multifamily Residential
 - Commercial
 - Industrial
 - Mixed Use
 - Vacant Land
 - Golf Course
 - Open Space
 - Private Educational
 - Nonprofit Organizations
 - Public Housing
 - Tax Exempt
 - Property Boundaries



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MAP DATE: January 09, 200

ATTACHMENT F

